

LAW OFFICE OF
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Via Electronic Mail
Richard.Norwood@usdoj.gov

April 7, 2015

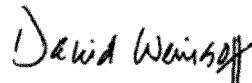
Richard Norwood - Citizen Suit Coordinator
U.S. Department of Justice
Environment and Natural Resource Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Re: *California River Watch v. City of Inglewood*
U.S. District Court - Central District of California
Case No.: 2:14-cv-09244-PA(AJWx)

Dear Mr. Norwood:

In compliance with 33 U.S.C. § 1365(c)(3), we enclose for review by the Department of Justice a copy of the Settlement Agreement and Mutual Release of Claims entered into by the parties in resolution of the above-captioned matter, effective April 3, 2015.

Sincerely,


David Weinsoff

DW:lhbm

Enclosure

cc: Matthew P. Kelly, Esq. (Via Electronic Mail - mkelly@omlawyers.com)
OLIVAREZ MARUGA
1100 So. Flower St., Suite 2200
Los Angeles, CA 90015

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement"), effective as of the last date of execution below ("Effective Date"), is made by and between California River Watch, a nonprofit corporation, on behalf of itself and its members ("CRW"), and City of Inglewood ("the City"). CRW and the City are sometimes hereinafter each referred to as a "Party" or collectively as the "Parties."

RECITALS

- A. California River Watch is a 501(c)(3) nonprofit, public benefit corporation organized under the laws of the State of California, dedicated to protect, enhance, and help restore the surface waters and groundwater including all rivers, creeks, streams, wetlands, vernal pools and tributaries of California.
- B. City of Inglewood owns the Inglewood Transfer Station located at 222 West Beach Avenue in Inglewood, California ("Site"). The Site is subject to various federal and state regulatory requirements under the federal Clean Water Act ("CWA"), including compliance with the State Water Resource Control Board's General Industrial Activities Storm Water Permit ("General Permit"). An agreed upon aerial map of the Site is attached as Exhibit A to this Agreement.
- C. On August 29, 2014, CRW served the City of Inglewood with a 60-Day Notice of Violations and Intent to File Suit ("Notice Letter") alleging various violations of the CWA relating to activities at the Site. Principal among the issues of alleged non-compliance identified in the Notice Letter are exceedances of EPA Benchmarks for pollutants in Annual Reporting years 2010-2011 through 2013-2014.
- D. City of Inglewood denies all of CRW's allegations that it is liable to CRW for any claims that were, or could have been asserted against the City based upon the Notice Letter.
- E. The Parties have expended effort and resources in investigating and evaluating allegations and claims set forth in the Notice Letter, including the exchange of information regarding the Site, as well as engaging in a negotiation and technical dialogue regarding settlement.
- F. The Parties now wish to resolve and settle all disputes, obligations, and purported or actual claims or causes of action, which may exist by and between CRW and the City, including without limitation any disputes, obligations, claims and/or causes of action that were or could have been asserted in or pursuant to the Notice Letter.

NOW, THEREFORE, in consideration of the execution of this Agreement and the releases, satisfactions and promises made herein, it is hereby agreed upon by the Parties as follows:

TERMS AND CONDITIONS

1. Parties Bound By This Agreement and Length of Agreement. This Agreement, and each of its provisions, including all representations, warranties, and promises contained herein, binds, and inures to the benefit of CRW and the City, and each of their respective assigns, present and future affiliates, parents, subsidiaries, predecessors and successors in interest whether by merger, consolidation, or otherwise, as well as their respective representatives, agents, and administrators, past, present, and future. The "Effective Date" is the last date on which the signature of a Party to this Agreement is executed, and the "Termination Date" is the date that all of the requirements under Sections 2 and 3 are finished by the City, or one year after the "Effective Date," whichever occurs first.

2. Actions By the City. In exchange for the delivery, execution, and performance of this Agreement and of the Release by CRW as provided herein, the City shall perform the below specified projects. The City reserves the right, in its sole discretion, to determine (i) which persons shall perform any work described herein, including contractors; and (ii) the scope and technical details of, and manner to implement, any such work, subject to review and approval by the Regional Water Quality Control Board (or such other regulatory agency as may, from time to time, exercise jurisdiction with respect to environmental matters at the Site):

2.1. Prepare and Implement an Updated SWPPP and Monitoring Plan. The City's current Storm Water Pollution Prevention Plan ("SWPPP") shall be updated and kept revised as necessary to ensure it is consistent with the requirements of the current General Permit (Water Quality Order 97-03-DWQ) and the new General Permit (Water Quality Order 2014-0057-DWQ) that goes into effect July 1, 2015. Nothing in this Paragraph will be construed to require the City to update with SWPPP and Monitoring Plan to act inconsistent with its legal obligations including but not limited to the timing of the preparation of the updates nor will this Agreement create any liability related thereto. The City's only obligation shall be to provide a copy of the SWPPP to CRW within ninety (90) days after completing its next update.

2.2. Submission of Additional Reports to CRW. To the extent that annual or other monitoring reports are not otherwise uploaded to and made available on the Regional Water Quality Control Board's storm water database, the City agrees to provide CRW with a copy of any reports concerning matters addressed in this Agreement. The City may furnish copies of any such reports to CRW in either hard copy or digital form.

2.3. Site Visits. CRW shall conduct one (1) site visit of the City facility within one (1) year

after the Effective Date of this Agreement to review BMPs designed to ensure compliance with the General Permit and implemented at the site. The CRW shall give the City seventy-two (72) hours advanced notice of its intent to conduct the site visit.

3. Fees and Costs. The City shall pay CRW the sum of \$34,750.00 as full reimbursement for CRW's investigative and attorney's fees and costs within five (5) days of CRW filing with the federal District Court a Notice of Dismissal whereby the Complaint and all claims therein shall be dismissed with prejudice. Payment shall be made by way of a single check made payable to "California River Watch" and mailed to the Law Office of Jack Silver, P.O. Box 5469, Santa Rosa, CA 95402-5469. Payment shall constitute full and complete satisfaction of any and all claims by CRW for attorney's fees and costs in connection with this matter up to and including the Effective Date, as well as attorney's fees and costs incurred by CRW to monitor and enforce City's compliance with this Agreement.

4. Actions by California River Watch. In exchange for the delivery, execution, and performance of this Agreement, CRW shall perform the below

4.1 Within five (5) business days after the Effective Date of this Agreement, CRW shall provide the federal District Court for the Central District of California in Case No. 2:14- cv-9244 PA (AJWx) with a Notice of Settlement, and shall submit this Agreement to the United States Department of Justice ("DOJ") for the statutory 45-day agency review period set forth in 33 U.S.C. §1365(c).

4.2 Within five (5) business days after the expiration of the agency review period discussed in Section 4.1, CRW shall file with the federal District Court a Notice of Dismissal whereby the Complaint and all claims therein shall be dismissed with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

5. Mutual Release. It is the intent of the Parties that the execution and delivery of this Agreement constitutes a full and complete satisfaction of all rights, claims and demands by CRW against the City, and the City against CRW, with respect to any and all allegations and claims made in the Notice Letter under the Clean Water Act. CRW and the City, on behalf of itself and any and all of its agents, representatives, successors, members, and assigns, does hereby absolutely, fully, and forever release, relieve, remise, and discharge the City and CRW, respectively, and its past and present employees, officers, directors, attorneys, and the predecessors, successors, and assigns of any of them, from any and all causes of action, claims, damages (including punitive damages), demands, debts, actions, attorneys' fees, costs of suit, and liabilities of every kind or nature whatsoever, arising out of claims asserted in the Notice Letter under the Clean Water Act concerning the Site. The release provided for herein shall be valid and effective whether the claims, causes of action, or liability hereby released (i) are known or unknown, suspected or unsuspected, (ii) are based in contract, tort, statute, or otherwise, or (iii) arise at law or in equity. This release shall

survive the termination of this Agreement, whether by satisfaction of the terms and conditions hereof or operation of law.

Further, the parties acknowledge that they are familiar with Section 1542 of the California Civil Code. For any other claims against each other, known or unknown, suspected or unsuspected, and each party expressly waives and relinquishes any rights and benefits which they have or may have under Section 1542 of the Civil Code of the State of California, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties acknowledge that each has specifically reviewed with its attorney the meaning and effect of the release set forth herein, the language of California Civil Code Section 1542, and the waiver contained herein. The Parties acknowledge that their attorneys have fully explained the impact of these provisions, and the Parties knowingly accept the risks associated with these provisions.

6. No Admission. This Agreement is the direct result of a compromise of disputed allegations and claims. As such, this Agreement shall not, for any purpose, be considered as an admission of liability by the City, nor shall the payment of any sum of money in consideration for the execution of this Agreement constitute or be construed as an admission of any liability by the City, which expressly denies any such liability or wrongdoing.

7. Delays in Schedule Implementation. In the event implementation by the City of the remedial measures set forth in Section 2 of this Agreement does not occur by the agreed to dates, despite the timely good faith efforts of the City to acquire any necessary approvals and/or permits, or due to factors unforeseen at the time this Agreement was entered into, the City agrees to notify CRW in writing as soon as practicable after the anticipated delay becomes apparent, and in any case except in a case of force majeure described below, not less than twenty (20) days prior to any deadline set forth in Section 2, and shall describe the reasons for the anticipated delay.

8. Force Majeure. The City shall not be deemed in default or breach of this Agreement by reason of any event which constitutes a force majeure. For purposes of this Agreement, a force majeure is defined as any event arising from causes beyond the reasonable control of the City or its contractors that delay or prevents performance. This includes, without limitation, acts of God, acts of war, acts of terrorism, fire, explosion, extraordinary weather events, restraint by court order or public authority, or other causes beyond the City's reasonable control. Neither increased costs nor economic hardship shall constitute a force majeure.

9. Breach of Agreement and Dispute Resolution. Any disputes between CRW and the City concerning any alleged breach of this Agreement shall be subject to the following dispute resolution procedures. Failure to satisfy the payment condition in Section 3 is a substantial breach of this

Agreement and relieves CRW of its obligations under this Agreement.

9.1. Good Faith Negotiations. CRW and the City shall make good faith efforts to resolve informally any alleged breach of the Agreement. If informal efforts to resolve the alleged breach are unsuccessful, that Party shall provide written notice of the alleged breach and that Party's intent to initiate the dispute resolution procedure of this Section 8. The notice shall include a recitation of all facts and circumstances giving rise to the dispute, including the particular provisions of the Agreement alleged to have been breached.

9.2. Mediation. If the dispute is not resolved by the Parties within thirty (30) days after such notice is given, such dispute shall be submitted to mediation before a mutually agreeable neutral mediator. The Parties shall each bear their own costs and attorney's fees incurred in connection with such mediation.

9.3. Waiver. By agreeing to these dispute resolution provisions, the Parties understand that they are waiving certain important rights and protections that otherwise may have been available to each of them if a dispute between them were determined by a judicial action including, without limitation, the right to a jury trial, and certain rights of appeal. Other than the remedies contained within this Agreement including dispute resolution and specific performance of the terms of this Agreement, there are no other remedies. The Parties specifically agree that there is no basis within this Agreement or within the contemplation of the Parties to support a claim for consequential damages due to any form of breach.

10. Notices. All notices, consents, approvals, requests, demands and other communications (collectively, "Notice") which the Parties are required or desire to serve upon or deliver to the other Party shall be in writing and shall be given by nationally- recognized overnight courier, by certified United States mail, return receipt requested, postage prepaid, addressed as set forth below, or by facsimile or electronic mail addressed as set forth below:

If to CRW: Jack Silver, Esq.
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel: (707) 528-8175
Email: lhm28843@sbcglobal.net

If to City: Matthew P. Kelly, Esq.
Olivarez Madruga, P.C.
1100 South Flower Street / Suite 2200
Los Angeles, CA 90015
Tel. (213) 744-0099
Email: mkelly@omlawyers.com

With a Copy to: Yvonne Horton.

Inglewood City Clerk
One Manchester Boulevard
Inglewood, California 90301
Tel: (310) 412-5280

Louis Atwell,
Director, Public Works
One Manchester Boulevard
Inglewood, CA 90301
Tel: (310) 412-5333

Kenneth R. Campos,
City Attorney
One Manchester Boulevard
Inglewood, CA 90301
Tel: (310) 412-8672

The foregoing addresses may be changed by Notice given in accordance with this Section 9. Any Notice sent by mail shall be deemed received two (2) days after the date of mailing. Any Notice sent by facsimile shall be deemed received upon electronic confirmation of the successful transmission thereof, and any Notice sent by electronic mail shall be deemed received upon electronic transmission thereof provided sender does not receive electronic notice of non-delivery. Any Notice sent by overnight courier service shall be deemed received on the day of actual delivery as shown by the confirmation of delivery by the messenger or courier service. If the date of receipt of any Notice to be given hereunder falls on a weekend or legal holiday, then such date of receipt shall automatically be deemed extended to the next business day immediately following such weekend or holiday for purposes of calculating time periods commencing upon the date of service.

11. Attorneys' Fees. Other than the payment to CRW under Section 3 each Party shall bear its own past and future attorneys' fees and costs relating to the subject matter of this Agreement.

12. This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, Superior Court, Southwest District, located at 825 Maple Avenue, Torrance, California 90503-5058. In the event of litigation in the United States District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

13. Parties' Acknowledgment of Terms. This Agreement has been carefully and fully read and reviewed by CRW, the City, and their respective counsel, if any, who hereby represent that the contents of this Agreement are understood, and agree that this Agreement is binding on each Party or its respective predecessors, successors, and assigns and as described above.

14. Interpretation and Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the United States and the State of California without regard to principles of conflicts of law. This Agreement shall be interpreted and construed as a whole, according to its fair meaning and not strictly for or against any Party, and without regard to which Party drafted the Agreement. All of the promises, representations, and warranties contained in this Agreement survive the execution of this Agreement.

15. No Assignments. Each Party to this Agreement represents and warrants that it has not assigned, transferred, hypothecated, or sold to any third person or entity, any of the rights or obligations released by or entered into under this Agreement.

16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall evidence one and the same agreement.

17. Headings. The headings used in this Agreement are for convenience of reference and shall not be used to define any provision.

18. Entire Agreement In Writing. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter set forth herein and supersedes all previous or contemporaneous negotiations, commitments (oral or written), and writings with respect to the subject matter set forth herein.

19. Modification or Amendment. This Agreement or any of its provisions may be modified or amended only by written agreement executed by all Parties to this Agreement.

20. Severability. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision. If, in any action before any court or other tribunal of competent jurisdiction, any term, restriction, covenant, or promise is held to be unenforceable for any reason, then such term, restriction, covenant, or promise shall be deemed modified to the extent necessary to make it enforceable by such court or other tribunal and, if it cannot be so modified, that this Agreement shall be deemed amended to delete here from such provision or portion adjudicated to be invalid or unenforceable, and the remainder of this Agreement shall be deemed to be in full force and effect as so modified. Any such modification or amendment in any event shall apply only with respect to the operation of this Agreement in the particular jurisdiction in which such adjudication is made.

21. Representations and Warranties. This Agreement is given voluntarily, free of undue influence, coercion, duress, menace, or fraud of any kind. No Party, nor any officer, agent, employee, representative, or attorney of or for any Party, has made any statement or representation to any other Party regarding any fact relied upon in entering this Agreement, and no Party is relying upon any statement, representation, or promise of any other Party, nor of any officer, agent, employee, representative, or attorney of or for any Party, in executing this Agreement or in making the settlement provided herein, except as expressly stated in this

Agreement.

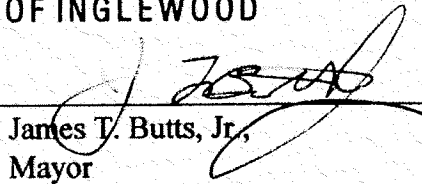
22. No Third Party Beneficiaries. This Agreement is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever. Subject only to the express restrictions contained in this Agreement, all of the rights, duties and obligations contained in this Agreement shall inure to the benefit of and be binding upon the Parties, and their successors and assigns.

23. Authority. Each of the persons signing this Agreement on behalf of an entity represents and warrants that he or she has actual authority and capacity to execute this Agreement on behalf of the entity and to bind it to all of the terms of this Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized representatives.

CITY OF INGLEWOOD

By: _____


James T. Butts, Jr.,
Mayor

Dated:

CALIFORNIA RIVER WATCH

By: _____


Larry Hanson
Board President

Dated:

3/23/2015

APPROVED AS TO FORM AND CONTENT:

OLIVAREZ MADRUGA, P.C.

By: _____

Matthew P. Kelly,
Attorney for City of Inglewood

Dated:

LAW OFFICE OF DAVID J. WEINSOFF

By: _____

David J. Weinsoff
Attorney for California River Watch

Dated:

APPROVED AS TO FORM AND CONTENT:

OLIVAREZ MADRUGA, P.C.

By: _____
Matthew P. Kelly,
Attorney for City of Inglewood

Dated:

LAW OFFICE OF DAVID J. WEINSOFF

By: David J. Weinsoff
David J. Weinsoff
Attorney for California River Watch

Dated: 3.23.15

206-230 W Beach Ave
Inglewood, CA 90302
3d 967228, 118357737



EXHIBIT A